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HOUSE BILL 1001

**47TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2005**

INTRODUCED BY

Janice E. Arnold-Jones

AN ACT

RELATING TO LAW ENFORCEMENT; REQUIRING DNA SAMPLES FROM  
CONVICTED SEX OFFENDERS; ESTABLISHING THE SEX OFFENDER DNA  
IDENTIFICATION SYSTEM.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 29-11A-4 NMSA 1978 (being Laws 1995,  
Chapter 106, Section 4, as amended) is amended to read:

"29-11A-4. REGISTRATION OF SEX OFFENDERS--INFORMATION  
REQUIRED--CRIMINAL PENALTY FOR NONCOMPLIANCE.--

A. A sex offender residing in this state shall  
register with the county sheriff for the county in which the  
sex offender resides.

B. A sex offender who is a current resident of New  
Mexico shall register with the county sheriff no later than ten  
days after being released from the custody of the corrections

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1 department or being placed on probation or parole. A sex  
2 offender who changes his residence to New Mexico shall register  
3 with the county sheriff no later than ten days after  
4 establishing residence in this state. When a sex offender  
5 registers with the county sheriff, he shall provide the  
6 following registration information:

7 (1) his legal name and any other names or  
8 aliases that he is using or has used;

9 (2) his date of birth;

10 (3) his social security number;

11 (4) his current address;

12 (5) his place of employment;

13 (6) the sex offense for which he was  
14 convicted; [~~and~~]

15 (7) the date and place of his sex offense  
16 conviction; and

17 (8) a sample of his DNA pursuant to the  
18 provisions of the DNA Identification Act.

19 C. A sex offender who is a resident of another  
20 state but who is employed in New Mexico or attending school in  
21 New Mexico shall register with the county sheriff for the  
22 county in which the sex offender is working or attending  
23 school.

24 D. A sex offender who is a resident of another  
25 state but who is employed in New Mexico or attending school in

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1 New Mexico shall register with the county sheriff no later than  
2 ten days after beginning work or school. When the sex offender  
3 registers with the county sheriff, he shall provide the  
4 following registration information:

5 (1) his legal name and any other names or  
6 aliases that he is using or has used;

7 (2) his date of birth;

8 (3) his social security number;

9 (4) his current address in his state of  
10 residence and, if applicable, the address of his place of  
11 lodging in New Mexico while he is working or attending school;

12 (5) his place of employment or the name of the  
13 school he is attending;

14 (6) the sex offense for which he was  
15 convicted; ~~and~~

16 (7) the date and place of his sex offense  
17 conviction; and

18 (8) a sample of his DNA pursuant to the  
19 provisions of the DNA Identification Act.

20 E. When a sex offender registers with a county  
21 sheriff, the sheriff shall obtain:

22 (1) a photograph of the sex offender and a  
23 complete set of the sex offender's fingerprints; and

24 (2) a description of any tattoos, scars or  
25 other distinguishing features on the sex offender's body that

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1 would assist in identifying the sex offender.

2 F. When a sex offender who is registered changes  
3 his residence within the same county, the sex offender shall  
4 send written notice of his change of address to the county  
5 sheriff no later than ten days after establishing his new  
6 residence.

7 G. When a sex offender who is registered changes  
8 his residence to a new county in New Mexico, the sex offender  
9 shall register with the county sheriff of the new county no  
10 later than ten days after establishing his new residence. The  
11 sex offender shall also send written notice of the change in  
12 residence to the county sheriff with whom he last registered no  
13 later than ten days after establishing his new residence.

14 H. Following his initial registration pursuant to  
15 the provisions of this section:

16 (1) a sex offender required to register  
17 pursuant to the provisions of Subsection D of Section  
18 29-11A-5 NMSA 1978 shall annually renew his registration with  
19 the county sheriff prior to December 31 of each subsequent  
20 calendar year for a period of twenty years; and

21 (2) a sex offender required to register  
22 pursuant to the provisions of Subsection E of Section  
23 29-11A-5 NMSA 1978 shall annually renew his registration with  
24 the county sheriff prior to December 31 of each subsequent  
25 calendar year for a period of ten years.

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1 I. A sex offender who willfully fails to comply  
2 with the registration requirements set forth in this section is  
3 guilty of a fourth degree felony and shall be sentenced  
4 pursuant to the provisions of Section 31-18-15 NMSA 1978.

5 J. A sex offender who willfully provides false  
6 information when complying with the registration requirements  
7 set forth in this section is guilty of a fourth degree felony  
8 and shall be sentenced pursuant to the provisions of Section  
9 31-18-15 NMSA 1978."

10 Section 2. Section 29-16-2 NMSA 1978 (being Laws 1997,  
11 Chapter 105, Section 2, as amended) is amended to read:

12 "29-16-2. PURPOSE OF ACT.--The purpose of the DNA  
13 Identification Act is to:

14 A. establish a DNA identification system for  
15 covered offenders;

16 B. facilitate the use of DNA records by local,  
17 state and federal law enforcement agencies in the:

18 (1) identification, detection or exclusion of  
19 persons in connection with criminal investigations; and

20 (2) registration of sex offenders required to  
21 register pursuant to the provisions of the Sex Offender  
22 Registration and Notification Act;

23 C. establish a missing persons DNA identification  
24 system consisting of the following DNA indexes:

25 (1) unidentified persons;

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- 1 (2) unidentified human remains; and
- 2 (3) relatives of, or known reference samples
- 3 from, missing persons; and

4 D. facilitate the use of DNA records by local,  
5 state and federal law enforcement agencies and the state  
6 medical investigator in the:

7 (1) identification and location of missing and  
8 unidentified persons or human remains; and

9 (2) registration of sex offenders required to  
10 register pursuant to the provisions of the Sex Offender  
11 Registration and Notification Act."

12 Section 3. Section 29-16-3 NMSA 1978 (being Laws 1997,  
13 Chapter 105, Section 3, as amended) is amended to read:

14 "29-16-3. DEFINITIONS.--As used in the DNA Identification  
15 Act:

16 A. "administrative center" means the law  
17 enforcement agency or unit that administers and operates the  
18 DNA identification system;

19 B. "DNA oversight committee" means the DNA  
20 identification system oversight committee;

21 C. "CODIS" means the federal bureau of  
22 investigation's national DNA index system for storage and  
23 exchange of DNA records submitted by forensic DNA laboratories;

24 D. "covered offender" means any person convicted of  
25 a felony offense as an adult under the Criminal Code, the Motor

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1 Vehicle Code or the constitution of New Mexico or convicted as  
2 an adult pursuant to youthful offender or serious youthful  
3 offender proceedings under the Children's Code or a sex  
4 offender required to register pursuant to the provisions of the  
5 Sex Offender Registration and Notification Act;

6 E. "department" means the department of public  
7 safety;

8 F. "DNA" means deoxyribonucleic acid as the basis  
9 of human heredity;

10 G. "DNA identification system" means the DNA  
11 identification system established pursuant to the DNA  
12 Identification Act;

13 H. "DNA records" means the results of DNA testing  
14 and related information;

15 I. "DNA testing" means a forensic DNA analysis that  
16 includes restriction fragment length polymorphism, polymerase  
17 chain reaction or other valid methods of DNA typing performed  
18 to obtain identification characteristics of samples;

19 J. "fund" means the DNA identification system fund;

20 K. "missing persons DNA identification system"  
21 means the missing persons DNA identification system established  
22 by the DNA Identification Act; ~~and~~

23 L. "sample" means a sample of biological material  
24 sufficient for DNA testing; and

25 M. "sex offender DNA identification system" means

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1 the sex offender DNA identification system established by the  
2 DNA Identification Act."

3 Section 4. Section 29-16-4 NMSA 1978 (being Laws 1997,  
4 Chapter 105, Section 4, as amended) is amended to read:

5 "29-16-4. ADMINISTRATIVE CENTER--POWERS AND DUTIES--  
6 TRANSFER TO OTHER LAW ENFORCEMENT AGENCY.--

7 A. The administrative center shall be an  
8 appropriate unit of the department or such other qualified New  
9 Mexico law enforcement agency as the secretary of public safety  
10 may designate in accordance with this section.

11 B. The administrative center shall:

12 (1) establish and administer the DNA  
13 identification system. The DNA identification system shall  
14 provide for collection, storage, DNA testing, maintenance and  
15 comparison of samples and DNA records for forensic and  
16 humanitarian purposes. Those purposes shall include generation  
17 of investigative leads, statistical analysis of DNA profiles  
18 and identification of missing persons and unidentified human  
19 remains. Procedures used for DNA testing shall be compatible  
20 with the procedures the federal bureau of investigation has  
21 specified, including comparable test procedures, laboratory  
22 equipment, supplies and computer software. Procedures used  
23 shall meet or exceed the provisions of the federal DNA  
24 Identification Act of 1994 regarding minimum standards for  
25 state participation in CODIS, including minimum standards for

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- 1 the acceptance, security and dissemination of DNA records;
- 2 (2) coordinate sample collection activities;
- 3 (3) perform or contract for DNA testing;
- 4 (4) serve as a repository for samples and DNA
- 5 records;
- 6 (5) act as liaison with the federal bureau of
- 7 investigation for purposes of CODIS;
- 8 (6) adopt rules and procedures governing:
- 9 (a) sample collection;
- 10 (b) DNA testing;
- 11 (c) the DNA identification system and
- 12 DNA records; and
- 13 (d) the acceptance, security and
- 14 dissemination of DNA records;
- 15 (7) be reimbursed for, pursuant to the DNA
- 16 Identification Act, the costs of sample collection and DNA
- 17 testing of samples taken for the purposes of the identification
- 18 of missing persons and unidentified human remains; ~~and~~
- 19 (8) establish and administer the missing
- 20 persons DNA identification system as a part of the DNA
- 21 identification system; and
- 22 (9) establish and administer the sex offender
- 23 DNA identification system as part of the DNA identification
- 24 system.

25 C. The secretary of public safety may designate,

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1 pursuant to a joint powers agreement, the crime laboratory of  
2 the police department for the largest municipality in a class A  
3 county having a population of more than two hundred fifty  
4 thousand at the most recent federal decennial census to act as  
5 the administrative center.

6 D. The secretary of public safety may designate,  
7 pursuant to a joint powers agreement, any other law enforcement  
8 agency to act as administrative center upon recommendation of  
9 five voting members of the DNA advisory committee."

10 Section 5. Section 29-16-5 NMSA 1978 (being Laws 1997,  
11 Chapter 105, Section 5, as amended) is amended to read:

12 "29-16-5. DNA OVERSIGHT COMMITTEE--CREATED--POWERS AND  
13 DUTIES.--

14 A. The "DNA identification system oversight  
15 committee" is created. The DNA oversight committee shall be  
16 composed of nine voting members as follows:

17 (1) a scientific representative from the  
18 department crime laboratory appointed by the secretary of  
19 public safety;

20 (2) a scientific representative from the crime  
21 laboratory of the police department for the largest  
22 municipality in a class A county having a population of more  
23 than two hundred fifty thousand at the most recent federal  
24 decennial census;

25 (3) the secretary of corrections or [his] the

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1 secretary's designated representative;

2 (4) the state medical investigator or [~~his~~]  
3 the investigator's designated representative;

4 (5) the attorney general or [~~his~~] the attorney  
5 general's designated representative;

6 (6) the president of the district attorneys  
7 association or [~~his~~] the president's designated representative;

8 (7) the chief public defender or [~~his~~] the  
9 chief public defender's designated representative;

10 (8) the president of the New Mexico criminal  
11 defense lawyers association or [~~his~~] the president's designated  
12 representative; and

13 (9) the head of the administrative center or  
14 [~~his~~] the head's designated representative.

15 B. The DNA oversight committee shall adopt rules  
16 and procedures regarding the administration and operation of  
17 the DNA identification system.

18 C. The administrative center shall review and make  
19 recommendations to the DNA oversight committee regarding rules  
20 and procedures for the administration and operation of the DNA  
21 identification system.

22 D. The DNA oversight committee shall oversee the  
23 establishment and administration of the missing persons DNA  
24 identification system as part of the DNA identification system.

25 E. The DNA oversight committee shall adopt rules

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1 and procedures regarding the administration and operation of  
2 the missing persons DNA identification system as part of the  
3 DNA identification system.

4 F. The DNA oversight committee shall oversee the  
5 establishment and administration of the sex offender DNA  
6 identification system as part of the DNA identification system.

7 G. The DNA oversight committee shall adopt rules  
8 and procedures regarding the administration and operation of  
9 the sex offender DNA identification system as part of the DNA  
10 identification system."

11 Section 6. Section 29-16-6 NMSA 1978 (being Laws 1997,  
12 Chapter 105, Section 6, as amended) is amended to read:

13 "29-16-6. COLLECTION OF SAMPLES.--

14 A. A covered offender shall provide one or more  
15 samples to the administrative center, as follows:

16 (1) a covered offender convicted on or after  
17 July 1, 1997 shall provide a sample immediately upon request of  
18 the corrections department so long as the request is made  
19 before release from any correctional facility or, if the  
20 covered offender is not sentenced to incarceration, before the  
21 end of any period of probation or other supervised release;

22 (2) a covered offender incarcerated on or  
23 after July 1, 1997 shall provide a sample immediately upon  
24 request of the corrections department so long as the request is  
25 made before release from any correctional facility; [~~and~~]

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1 (3) a covered offender on probation or other  
2 supervised release on or after July 1, 1997 shall provide a  
3 sample immediately upon request of the corrections department  
4 so long as the request is made before the end of any period of  
5 probation or other supervised release; and

6 (4) a covered offender required to register  
7 pursuant to the provisions of the Sex Offender Registration and  
8 Notification Act shall provide a sample immediately upon  
9 request by the county sheriff located in any county in which  
10 the sex offender is required to register, unless the sex  
11 offender provided a sample while in the custody of the  
12 corrections department or to the county sheriff of another  
13 county in New Mexico in which the sex offender is registered.

14 B. Samples from unidentified persons or relatives  
15 of a missing person shall be provided to the administrative  
16 center, as follows:

17 (1) upon the completion of a permission to  
18 search form authorizing the collection of a DNA sample;

19 (2) upon the receipt of a properly executed  
20 search warrant; or

21 (3) upon the issuance of a court order.

22 C. Samples from unidentified human remains shall be  
23 provided by the state medical investigator.

24 D. Samples of known reference materials from  
25 missing persons shall be provided by the investigating law

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1 enforcement agency."

2 Section 7. APPLICABILITY.--The provisions of this act  
3 shall apply to any person convicted of a sex offense and  
4 required to register pursuant to the provisions of the Sex  
5 Offender Registration and Notification Act.

6 Section 8. EFFECTIVE DATE.--The effective date of the  
7 provisions of this act is July 1, 2005.

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